

THE HONORABLE JAMES L. ROBERT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LEONARDO, S.P.A., an Italian company,

Plaintiff,

v.

THE BOEING COMPANY, a Delaware
corporation,

Defendant.

No. 2:19-cv-2082

AMENDED STIPULATED MOTION TO
EXTEND CASE SCHEDULE AND
~~PROPOSED~~ ORDER [LCR 16(b)(6); LCR
10(g); LCR 7(d)(1)]

NOTE ON MOTION CALENDAR:
March 10, 2021

I. INTRODUCTION

Pursuant to Local Civil Rule 16(b)(6), Plaintiff Leonardo, S.P.A. (“Leonardo”) and Defendant The Boeing Company (“Boeing”) submit this renewed motion to request that the Court order a short, approximate four-week extension of certain case schedule deadlines. The revised extension the parties propose will not impact the existing dispositive motion deadline or any deadlines thereafter, including the trial date of September 14, 2021.

Good cause exists for this minor adjustment to the case schedule. The parties have prosecuted and defended this matter diligently, but the existing case deadlines cannot reasonably be met due to the disruptions that the COVID-19 pandemic has caused, particularly to the aerospace industry and to the efficient conduct of an international dispute.

II. BACKGROUND

A. Procedural History of Litigation

Leonardo initiated this litigation on December 23, 2019. ECF No. 1. It amended its Complaint, ECF No. 12, and Boeing answered, asserting counterclaims, ECF No. 22. Leonardo's and Boeing's claims present contested factual, contractual, liability, and damages issues concerning "slats" that Leonardo supplied to Boeing for use on the wings of 767 airplanes. ECF Nos. 12, 22.

The parties exchanged initial disclosures on March 6, 2020, and filed a Joint Status Report and Discovery Plan on March 13, 2020, ECF No. 24. The Court conducted an initial status conference with the parties on March 19 to discuss the parties' Joint Status Report. ECF No. 25. Following the initial status conference, the Court issued a Minute Order establishing the case schedule. ECF No. 26 ("Case Schedule").

Under the existing Case Schedule, disclosure of expert testimony under FRCP 26(a)(2) is due March 18, 2021; all motions related to discovery must be filed by April 19, 2021; and discovery must be completed by May 17, 2021. Case Schedule, ECF No. 26. Trial is set for September 14, 2021. *Id.*

The parties previously moved the Court for extension of certain case schedule deadlines. ECF No. 34. The Court denied this motion without prejudice to the parties' ability to renew the motion on a modified basis. ECF No. 36 (Minute Entry).

B. The Parties Have Agreed to Extend Certain Case Schedule Deadlines by Approximately Four Weeks, With No Impact to the Dispositive Motion Deadline or Trial Date

Boeing and Leonardo have jointly agreed to a short, approximate four-week extension of certain Case Schedule deadlines that does not impact the existing dispositive motion deadline or any deadlines thereafter, including the trial date of September 14, 2021. Original Case Schedule deadlines, and the revised deadlines proposed by the parties, are outlined below:

Event	Original Deadline	Revised Deadline
Deadline for amending pleadings	March 18, 2021	April 19, 2021
Disclosure of expert testimony under FRCP 26(a)(2)	March 18, 2021	April 19, 2021
All motions related to discovery must be filed by (<i>see</i> LCR 7(d))	April 19, 2021	May 18, 2021
Discovery completed by	May 17, 2021	June 16, 2021
All dispositive motions and motions challenging expert witness testimony must be filed by (<i>see</i> LCR 7(d))	June 16, 2021	No change
Settlement conference held no later than	June 16, 2021	No change
All motions in limine must be filed by	August 3, 2021	No change
Agreed pretrial order due	August 24, 2021	No change
Deposition Designations must be submitted to the court (not filed on CM/ECF) by: (<i>see</i> LCR 32(e))	August 26, 2021	No change
Pretrial conference to be held at 02:00 PM on	August 30, 2021	No change
Trial briefs and proposed findings of fact and conclusions of law by:	September 7, 2021	No change
Trial date	September 14, 2021	No change

III. ARGUMENT

A. The Court May Modify the Case Schedule for Good Cause

The Federal Rules of Civil Procedure provide that a case schedule may be modified for good cause and with the judge's consent. Fed. R. Civ. P. 16(b)(4); LCR 16(b)(6). "In determining whether 'good cause' exists under Federal Rule of Civil Procedure 16(b) to modify a case schedule, the court 'primarily considers the diligence of the party seeking amendment.'" *Doe v. Trump*, 329 F.R.D. 262, 272 (W.D. Wash. 2018) (citing *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992)). "Good cause" exists "when the deadline in the scheduling order 'cannot reasonably be met despite the diligence of the party seeking the extension.'" *Id.*

B. Good Cause Exists to Extend the Case Schedule

Leonardo and Boeing each assert that they have diligently prosecuted and defended this case. The total volume of documents produced in the litigation thus far exceeds 164,000 pages, and while the parties have ongoing disputes over the adequacy of document productions and

1 certain written discovery responses, there is no question that each party has actively litigated the
2 case.

3 The parties' efforts have been hampered by the significant challenges and delays
4 resulting from the COVID-19 pandemic. Although the pandemic is now a fact of life, this case
5 commenced at the outset of the pandemic, when its duration and the extent to which it would
6 disrupt normal business operations in general and the aerospace industry in particular were
7 unknown. When the Court first issued the Case Schedule in March 2020, businesses in
8 Washington were largely still open. In Italy, where Leonardo's factory that manufactured the 767
9 slats at issue in this case is located and where Boeing's employees with first-hand knowledge of
10 Leonardo's manufacturing are based, the country had only days prior entered a national
11 lockdown. Since then, the COVID-19 pandemic in the United States and abroad has necessitated
12 repetitive, varying levels of business "lockdowns".

13 The COVID-19 pandemic has also caused widespread and continually evolving
14 disruption of the aerospace industry. As widely reported, the pandemic brought to a halt a
15 significant portion of global air travel, causing downstream effects to Leonardo's and Boeing's
16 businesses in the form of reduced order volume and cancelled orders. These impacts resulted in
17 pervasive disruption to their respective businesses, including large-scale layoffs and furloughs of
18 Boeing's 767 program employees and other employees.

19 Amidst the pandemic, discovery in the litigation required Boeing and Leonardo to collect
20 documents and data from factories and offices located in Everett, Washington (Boeing), Renton,
21 Washington (Boeing - Military Delivery Center), Pomigliano, Italy (Leonardo), and Rome, Italy
22 (Leonardo). All of these locations experienced periodic lockdowns which slowed the pace at
23 which ESI discovery could be conducted.

24 Under the circumstances, good cause exists to allow a short, agreed extension of certain
25 Case Schedule Deadlines. The requested extension, which does not impact the dispositive motion
26 deadline or any deadlines thereafter (including the trial date), is consistent with the Court's

General Order 02-20 (Mar. 17, 2020) (noting that “Scheduling orders in cases may need to be amended as appropriate on a case-by-case basis.”) and related General Orders.

IV. CONCLUSION

For the foregoing reasons, the parties respectfully request that the Court enter the revised Case Schedule deadlines set forth in the Proposed Order accompanying this Motion.

IT IS SO STIPULATED by and between the parties hereto.

DATED: March 10, 2021

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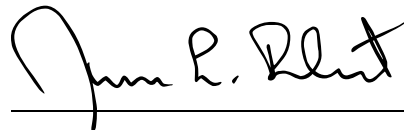
Attorneys for Defendant The Boeing Company

II. ~~PROPOSED~~ ORDER

PURSUANT TO THE FOREGOING STIPULATION, it is ORDERED that the following deadlines shall replace those set forth in the Court's Minute Order establishing the case schedule, ECF 26 ("Case Schedule"). All other provisions of the Case Schedule remain in effect.

Event	Original Deadline	Revised Deadline
Deadline for amending pleadings	March 18, 2021	April 19, 2021
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DATED this 10th day of March, 2021.



HON. JAMES L. ROBERT
UNITED STATES DISTRICT JUDGE